

LC01782

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2002

A N A C T

RELATING TO STATUTES AND STATUTORY CONSTRUCTION

Introduced By: Representatives Carter, Fox, and San Bento

Date Introduced: February 13, 2002

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-40.1-13 of the General Laws in Chapter 5-40.1 entitled
2 “Occupational Therapy” is hereby amended to read as follows:
3 **5-40.1-13. Fees. --** When an application is submitted to the division of
4 professional regulation for a license to practice occupational therapy in Rhode Island, the
5 applicant ~~pays~~ shall pay a non-refundable fee of sixty-two dollars and fifty cents (\$62.50)
6 to the general treasurer. A licensee shall submit a biennial renewal fee of sixty-two
7 dollars and fifty cents (\$62.50) ~~is submitted~~ with a renewal application on or before the
8 ~~first~~ thirty-first (31st) day of March of each even year pursuant to the requirements of §
9 5-40.1-12~~(4)~~(a)(3), and any person who allows his or her license to lapse by failing to
10 renew it in the manner prescribed ~~pays~~ shall pay an additional fee of twenty-five dollars
11 (\$25.00) as referred to in § 5-40.1-12~~(4)~~
12 (a)(6).

13 SECTION 2. Section 23-17-44 of the General Laws in Chapter 23-17 entitled “Licensing
14 of Health Care Facilities” is hereby amended to read as follows:

15 **23-17-44. Moratorium on new initial nursing facility licensed beds and on**
16 **increases to the licensed capacity of existing nursing facility licenses.** -- (a) The
17 licensing agency shall issue no new initial licenses for nursing facilities prior to July 1,
18 2004; provided, however, that:

(1) Any person holding a previously issued and valid certificate of need as of August 21, 1996 shall be permitted to effect a prior certificate from the licensing agency consistent with any other statutory and regulatory provisions which may further apply;

(2) Any person holding a nursing facility license may undertake activities to construct and operate a replacement nursing facility with the same or lower bed capacity as is presently licensed provided that the replacement facility may only be licensed upon the otherwise unconditional cessation of operation of the previously licensed nursing facility;

(3) Any certificate of need application under active review before the state agency as of January 10, 1996, which application seeks approval of a proposal to establish a new nursing facility or seeks to increase the licensed bed capacity of an existing nursing facility shall continue to be reviewed under all the statutory and regulatory requirements in effect at the time the application was accepted for review by the state agency; and

(4) On July 1, 1999, if the statewide occupancy rate of licensed nursing facility beds exceeds ninety-two percent (92%) for the preceding calendar year, as determined by the department of human services, an assisted living residence licensed pursuant to chapter 17.4 of this title may propose to seek nursing facility licensure by conversion of assisted living residence rooms within its existing physical plant; provided however, that:

(i) The number of nursing facility beds to be licensed does not exceed the lesser of twenty (20) beds or ten percent (10%) of the licensed bed capacity of the assisted living residence;

(ii) The capital expenditures associated with the implementation of the nursing facility beds does not exceed five hundred thousand dollars (\$500,000);

(iii) The nursing facility shall be limited in taking residents to those persons who are transferring from residency at the assisted living residence;

(iv) The assisted living residence must participate in the Medicaid program;

(v) The application must be submitted to the health services council on or before October 1, 1999;

(vi) The facility must comply with all requirements of the Health Care Certificate of Need Act, chapter 15 of title 23.

(b) Prior to July 1, 2004, the licensing agency shall not increase the licensed bed capacity of any existing licensed nursing facility, including any nursing facility approved for change in ownership pursuant to ~~§ 23-17-14~~ §§23-17-14.3 and 23-17-14.4, except for the greater of ten (10) beds or ten percent (10%) of the facility's licensed capacity. Any person holding a previously issued and valid certificate of need as of the date of passage of this section or who shall subsequently be granted a certificate of need pursuant to subsection (a) shall be permitted to

1 effect a prior certificate from the licensing agency consistent with any other statutory and
2 regulatory provisions which may further apply.

3 SECTION 3. Sections 25-2-14, 25-2-18.1, 25-2-25, and 25-2-19 of the General Laws in
4 Chapter 25-2 entitled "Days of Special Observance" are hereby amended to read as follows:

5 **25-2-14. White Cane Safety Day - Proclamation.** -- Each year the governor shall
6 take suitable public notice of October 15 as "~~W~~white ~~C~~ane ~~S~~safety ~~D~~day." The governor shall
7 issue a proclamation in which he or she:

8 (1) Comments upon the significance of the white cane;

9 (2) Calls upon the citizens of the state to observe the provisions of the white cane law and
10 to take precautions necessary to the safety of the people who are disabled;

11 (3) Reminds the citizens of the state of the policies with respect to people who are
12 disabled ~~herein~~ as declared in § 25-2-13 and urges the citizens to cooperate in giving effect to
13 them; and

14 (4) Emphasizes the need of the citizens to be aware of the presence of people who are
15 disabled in the community and to keep safe and functional for people who are disabled the streets,
16 highways, sidewalks, walkways, public buildings, public facilities, other public places, places of
17 public accommodation, amusement, and resort, and other places to which the public is invited,
18 and to offer assistance to people who are disabled upon appropriate occasions.

19 **25-2-18.1. Martin Luther King, Jr. State Holiday Commission. [Effective until**

20 **January 7, 2003.]** -- (a) There is ~~hereby~~ created a permanent commission to be known as the
21 Martin Luther King, Jr. State Holiday Commission to consist of thirteen (13) members, three (3)
22 of whom shall be from the house of representatives, not more than two (2) from the same political
23 party, to be appointed by the speaker; three (3) of whom shall be from the senate, not more than
24 two (2) from the same political party to be appointed by the senate majority leader; three (3) of
25 whom shall be representatives of the general public, to be appointed by the speaker; two (2) of
26 whom shall be representatives of the general public to be appointed by the senate majority leader;
27 one of whom shall be a representative of the governor's office, to be appointed by the governor;
28 and one of whom shall be the lieutenant governor, all of the foregoing to be known as
29 commission members. The commission shall appoint not more than sixteen (16) representatives
30 from organizations and groups generally identified with and thought to epitomize the ideals of Dr.
31 Martin Luther King, Jr., all of whom shall be known as non-voting affiliate members, to serve for
32 two (2) year terms.

33 (b) The purpose of the commission shall be to plan, supervise, and administer, in
34 conjunction with the federal Martin Luther King Day Commission and the Martin Luther King

1 Center for Non-Violent Social Change, an appropriate celebration to commemorate the birthday
2 of Dr. Martin Luther King, Jr., and the annual observance of Dr. Martin Luther King Day, which
3 will be observed on the third Monday in January each year. The commission shall not limit its
4 activities to the annual celebration, but shall endeavor to promote educational efforts throughout
5 the year, as well as to promote seminar events during the annual celebration that will be of
6 informative value to all segments of the Rhode Island community.

7 ~~(c) Forthwith upon the passage of this section,~~ The members of the commission ~~shall~~
8 ~~meet at the call of the speaker and~~ shall, in February of each odd-numbered year, elect from
9 among themselves a chairperson, who shall be a legislator, and a vice-chairperson, who shall not
10 be a government official or employee. Vacancies in the commission shall be filled in like manner
11 as the original appointment.

12 (d) The commission is empowered to appoint committees to study specialized areas of
13 concern and to report their findings and recommendations to the commission; provided, however,
14 that one of these committees shall be an education committee.

15 (e) The commission is empowered to establish a Martin Luther King Scholarship Fund
16 and to award scholarships ~~therefrom~~ from the fund. Decisions concerning scholarship awards
17 shall be made by the education committee of the commission in conjunction with the higher
18 education assistance authority.

19 (f) The commission is empowered to apply for and receive grants, appropriations, or gifts
20 from any federal, state, or local agency, from any public or private foundation, and from any
21 person, firm, or corporation in order to carry out the purposes of this chapter. The allocation of
22 any funds received shall be decided by a majority vote of voting members in attendance at a
23 meeting duly convened for the conduct of business by the commission.

24 Seven (7) members of the commission shall constitute a quorum.

25 (g) The commission shall meet at least four (4) times per year.

26 ~~(h) On or before October 1, 1996,~~ The commission shall adopt policies concerning the
27 responsibilities of its voting members and non-voting affiliate members, including attendance at
28 commission meetings.

29 (i) All departments and agencies of the state shall furnish advice and information,
30 documentary and otherwise, to the commission and its agents as may be necessary or desirable to
31 facilitate the purposes of this chapter.

32 (j) The speaker is ~~hereby~~ authorized and directed to provide suitable quarters for the
33 commission.

(k) The commission shall file a report with the general assembly outlining its plans for the celebration on or before December 15th each year prior to the celebration.

25-2-18.1. Martin Luther King, Jr. State Holiday Commission. [Effective January 7, 2003.] -- (a) There is hereby created a permanent commission to be known as the Martin Luther King, Jr. State Holiday Commission to consist of thirteen (13) members, three (3) of whom shall be from the house of representatives, not more than two (2) from the same political party, to be appointed by the speaker; three (3) of whom shall be from the senate, not more than two (2) from the same political party to be appointed by the president of the senate; three (3) of whom shall be representatives of the general public, to be appointed by the speaker; two (2) of whom shall be representatives of the general public to be appointed by the president of the senate; one of whom shall be a representative of the governor's office, to be appointed by the governor; and one of whom shall be the lieutenant governor, all of the foregoing to be known as commission members. The commission shall appoint not more than sixteen (16) representatives from organizations and groups generally identified with and thought to epitomize the ideals of Dr. Martin Luther King, Jr., all of whom shall be known as non-voting affiliate members, to serve for two (2) year terms.

(b) The purpose of the commission shall be to plan, supervise, and administer, in conjunction with the federal Martin Luther King Day Commission and the Martin Luther King Center for Non-Violent Social Change, an appropriate celebration to commemorate the birthday of Dr. Martin Luther King, Jr., and the annual observance of Dr. Martin Luther King Day, which will be observed on the third Monday in January each year. The commission shall not limit its activities to the annual celebration, but shall endeavor to promote educational efforts throughout the year, as well as to promote seminar events during the annual celebration that will be of informative value to all segments of the Rhode Island community.

~~(c) Forthwith upon the passage of this section, The members of the commission shall meet at the call of the speaker and shall, in February of each odd-numbered year, elect from among themselves a chairperson, who shall be a legislator, and a vice-chairperson, who shall not be a government official or employee. Vacancies in the commission shall be filled in like manner as the original appointment.~~

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14 documentary and otherwise, to the commission and its agents as may be necessary or desirable to
15 facilitate the purposes of this chapter.

16 (j) The speaker is ~~hereby~~ authorized and directed to provide suitable quarters for the
17 commission.

18 (k) The commission shall file a report with the general assembly outlining its plans for
19 the celebration on or before December 15th each year prior to the celebration.

20 **25-2-25. National Women's History Week.** -- The calendar week containing March
21 eighth, "International Women's ~~ad~~Day," in each year is ~~hereby~~ designated as "National Women's
22 History Week." The governor shall **annually issue an annual** proclamation inviting and urging
23 the people of the state to observe the week in schools and other suitable places with appropriate
24 exercises and study with an emphasis on the historical accomplishments of Rhode Island women.
25 The department of elementary and secondary education, ~~the Rhode Island office of civil rights,~~
26 and the Rhode Island commission on women shall make appropriate information regarding the
27 observance available to the people of the state and to schools within the limits of their budgets.

28 **25-2-29. Saint Jean-Baptiste Day.** -- The twenty-fourth day of June shall
29 annually be set aside as a day to be known as "Saint Jean-Baptiste Day" and the governor
30 shall **annually issue an annual** proclamation inviting and urging the people of the state
31 to observe this day in suitable places with appropriate ceremonies. Saint Jean-Baptiste
32 Day shall commemorate the feast of Saint ~~John the Baptist~~ Jean-Baptiste as an important
33 observance and show of appreciation for the significant cultural, economic, and civic

1 contributions made by Franco-Americans **which that** have served to enrich the culture
2 and lifestyle of this state.

3 SECTION 4. Sections 25-3-1 and 25-3-3 of the General Laws in Chapter 25-3
4 entitled “Work on Holidays and Sundays” are hereby amended to read as follows:

5 **25-3-1. Definitions.** -- As used in this chapter:

6 (1) “Director” means the director of the department of labor and training;

7 (2) “Economic necessity” means and refers to any case where the director determines
8 that:

9 (i) Both the economics and technology of manufacture of the product or a component
10 ~~thereof~~ of the product requires continuous conversion or processing of raw materials,
11 intermediates, or components without interruption to avoid disproportionate loss of production
12 capacity;

13 (ii) The economics and technology of data processing requires the continuous operation
14 of data processing equipment to avoid deterioration of equipment or a disproportionate loss of
15 computer capacity or where customer requirements are ~~such~~ that data processing equipment must
16 be available for input or output on a continuous basis;

17 (iii) Because prevailing industry practice in the manufacturing or processing of the
18 product or in the provision of banking or financial services is to operate facilities within that
19 industry seven (7) days per week, the failure to operate on one or more Sundays or holidays will
20 subject the employer to a competitive hardship within the industry in which the employer
21 competes;

22 (iv) Maintenance or improvement of plant or equipment cannot practically or efficiently
23 be performed while production is in process;

24 (v) The scheduling of production on Sundays or holidays is necessitated by interrupted or
25 allocated energy supplies, or shortages of raw materials or component parts;

26 (vi) An employer has been deprived of its normal production schedule by fire, flood,
27 power failure, or other circumstances beyond its control; or

28 (vii) Circumstances, temporary in nature, are ~~such~~ that undue economic hardship would
29 result from the inability to operate on one or more Sundays or holidays;

30 (3) “Employee” means any individual employed by an employer, but shall not include:

31 (i) Any individual employed in agriculture or maritime trades, including commercial
32 fishing or boat repairs;

33 (ii) Any physician, dentist, attorney at law, or accountant;

1 (iii) Any individual engaged in the provision of health care or maintenance;
2 (iv) Any individual employed in a restaurant, hotel, motel, summer camp, resort, or other
3 recreational facility (except health clubs);
4 (v) Any individual employed in the business of offshore petroleum or gas exploration or
5 extraction, or in the business of servicing or supplying persons engaged in exploration or
6 extraction;
7 (vi) Supervisory employees as defined in 29 U.S.C. § 213(a)(1) and regulations issued
8 pursuant ~~thereto~~ to that section;
9 (vii) Any individual employed by an employer holding a license issued pursuant to
10 chapter 23 of title 5; or
11 (viii) Any individual employed as part of a telephonic delivery of customer service, sales
12 operations, and ancillary services related ~~thereto~~ to those services and operations, except for
13 specific employment positions in the telecommunications industry **which that** are part of any
14 collective bargaining agreement or employment contract in effect on July 2, 1998.
15 (4) “Employer” means any natural person, partnership, firm, corporation, or other
16 enterprise engaged in industry, transportation, communication, or any other commercial
17 occupation involving one or more employees; and
18 (5) “Holidays” means Sunday, New Year’s Day, Memorial Day, July 4th, Victory Day,
19 Labor Day, Columbus Day, Veterans’ Day, Thanksgiving, and Christmas; provided, ~~however,~~
20 that as it pertains to all offices of state and municipal government, the term “holiday” includes in
21 addition to the ~~foregoing~~ holidays enumerated in this subdivision, Dr. Martin Luther King, Jr.’s
22 Birthday, ~~as defined herein.~~ **in § 25-2-18.**
23 **25-3-3. Work on Sundays or holidays.** -- (a) Work performed by employees on
24 Sundays and holidays must be paid for at least one and **one-half** (1 1/2) times the normal rate of
25 pay for the work performed; provided: (1) that it is not grounds for discharge or other penalty
26 upon any employee for refusing to work upon any Sunday or holiday enumerated in this ~~section~~
27 chapter; (2) any manufacturer which operates for seven (7) continuous days per week is exempt
28 from the requirement of subdivision (1).
29 (b) Any manufacturer of wall-covering products which operates for seven (7) continuous
30 days per week, twenty-four (24) hours per day, and has complied with the provisions of
31 subsection (a) is exempt from the requirement that the work be voluntary on Sundays as provided
32 in subsection (a); provided, that the manufacturer increases employment by at least ten percent
33 (10%), within one year of its conversion to continuous operation from non-continuous operation.

(c) Any manufacturer that operates three (3) shifts, or begins its work week on Sundays, may begin the shift or start the work week at 11:00 P.M. on Sunday and not be required to pay its employees one and one-half (1 1/2) times the normal rate of pay during the one hour period between 11:00 P.M. Sunday and 12 midnight.

SECTION 5. Sections 27-1-1, 27-1-29, 27-1-38 and 27-1-40 of the General Laws in chapter 27-1 entitled "Domestic Insurance Companies" are hereby amended to read as follows:

27-1-1. Site of principal office and records. -- (a) Every insurance company organized after May 3, 1956, under the laws of this state shall have its principal office and maintain all of its records, or duplicates ~~thereof~~ of those records, in this state; provided, ~~however,~~ that the director of business regulation may, after a public hearing, allow any insurance company, upon application, to locate its principal office and maintain certain original records outside of this state if it is determined that it is not inconsistent with the public interest of the people of the state of Rhode Island. In determining what is not inconsistent with the public interest of the people of the state of Rhode Island, the director shall make findings of fact, reduced to writing and filed with the secretary of state, which findings shall include, but are not ~~be~~ limited to the following:

(1) ~~(a)~~ The number of full time employees currently located within the state, and the number of full time employees anticipated to be located within the state if the petition is granted; ~~and~~

(2) ~~(b)~~ That no detriment nor prejudice will inure to any current or anticipated future policyholders of the company by granting the application; ~~and~~

(3) ~~(c)~~ That the granting of the application is not ~~inimicable~~ inimical to the ability of policyholders to file claims with and against the company, and, in furtherance of this finding, may require that the company maintain a toll free number for registering claims, and may require a claims office to be located within the state, staffed by a person authorized to issue payment on behalf of the company on approved claims; and

(4) ~~(d)~~ That a review of the financial records of the company and the records relied upon by the director in making the determination have satisfied the director that the company is able to meet its obligations to current policyholders. In the event that there is any risk associated with the granting the application the director may deny the application or may, in furtherance ~~thereof~~ of the application, ~~may~~ require the posting of bonds and/or securities with the general treasurer, in an amount to be determined by the director, sufficient to protect the interest of the policyholders within the state, ~~;~~ ~~and~~

1 **(b) (e)** The director is authorized to promulgate regulations as provided for by the
2 Administrative Procedures Act, chapter 35 of title 42, not inconsistent with ~~the foregoing~~
3 this section, in furtherance of the authority ~~herein~~ granted in this section.

4 27-1-29. Reports of directors, officers, and principal shareholders. -- Every person
5 who is directly or indirectly the beneficial owner of more than ten percent (10%) of any
6 class of any equity security of a domestic stock insurance company, or who is a director
7 or an officer of a domestic stock insurance company, shall file in the office of the
8 commissioner ~~on or before the first day of July, 1966, or~~ within ten (10) days after he or
9 she becomes the beneficial owner, director, or officer, a statement, in a form as the
10 commissioner may prescribe, of the amount of all equity securities of the company of
11 which he or she is the beneficial owner. Within ten (10) days after the close of each
12 calendar month, ~~thereafter~~, if there has been a change in ownership during the month, he
13 or she shall file in the office of the commissioner a statement, in a form as the
14 commissioner may prescribe, indicating his or her ownership at the close of the calendar
15 month and any changes in his or her ownership as have occurred during the calendar
16 month.

17 **27-1-38. Acquisition of minority interests in subsidiary insurers.** -- (a) Any parent
18 corporation directly or indirectly owning at least ninety-five percent (95%) of the aggregate
19 issued and outstanding shares of all classes of voting stock of an insurance company created by
20 special act of the general assembly may, pursuant to a plan for acquisition of minority interests in
21 the insurance company adopted pursuant to this section, acquire all of the remaining issued and
22 outstanding shares of voting stock of the insurance company, by exchange of stock, other
23 securities, cash, other consideration, or any combination ~~thereof~~ of these.

24 (b) The board of directors, trustees, or other governing body of the parent corporation
25 may adopt a plan for the acquisition of minority interests in a subsidiary insurer. Every plan shall
26 set forth:

27 (1) The name of the company whose shares are to be acquired;

28 (2) The total number of issued and outstanding shares of each class of voting stock of the
29 company, the number of its shares owned by the parent corporation and, if either of the foregoing
30 is subject to change prior to the effective date of acquisition, the manner in which any change
31 may occur;

1 (3) The terms and conditions of the plan, including the manner and basis of exchanging
2 the shares to be acquired for shares or other securities of the parent corporation, for cash, other
3 consideration, or any combination of the foregoing, the proposed effective date of acquisition,
4 and a statement clearly describing the rights of dissenting shareholders to demand appraisal;

5 (4) If the parent corporation that has adopted the plan is neither a domestic corporation
6 nor an authorized insurer, its consent to the enforcement against it in this state of the rights of
7 shareholders pursuant to the plan, and a designation of the insurance commissioner as the agent
8 upon whom process may be served against the parent corporation in the same manner as if the
9 parent corporation were a foreign insurance company licensed to do business in this state; and

10 (5) The other provisions with respect to the plan that the board of directors, trustees or
11 other governing body deems necessary or desirable, or which the director of the department of
12 business regulation may prescribe.

13 (c) Upon adoption of the plan, it shall be duly executed by the president and attested by
14 the secretary, or the executive officers corresponding ~~thereto~~ to president and secretary, under the
15 corporate seal of the parent corporation which has adopted the plan. A certified copy of the plan,
16 together with a certificate of its adoption subscribed by the officers and affirmed by them as true
17 under the penalties of perjury and under the seal of the parent corporation, shall be submitted to
18 the director of business regulation for his or her approval. The director of business regulation
19 shall consider the plan and, if satisfied that it complies with this section, is fair and equitable and
20 not inconsistent with law, the director of business regulation shall approve the plan. The director
21 of business regulation shall approve, modify, or disapprove the plan within sixty (60) days of its
22 submission to him or her. If the director of business regulation modifies or disapproves the plan,
23 notification of his or her modification or disapproval, assigning the reasons ~~therefor~~ for that
24 action, shall be given in writing by him or her to the parent corporation that submitted the plan.
25 No plan shall take effect unless the approval of the director of the department of business
26 regulation has been obtained.

27 (d) If the director of business regulation approves the plan as submitted or modified, the
28 parent corporation which has adopted the plan shall deliver to each person who, as of the date of
29 delivery, is a holder of record of stock to be acquired pursuant to the plan, a copy of the plan, or a
30 summary of the plan approved by the director of the department of business regulation in person
31 or by depositing a copy or a summary of the plan in the post office, postage prepaid, addressed to
32 the shareholder at the shareholder's address of record. On or before the date of acquisition
33 proposed in the plan, the parent corporation which has adopted the plan shall file with the director
34 of the department of business regulation a certificate, executed by its president and attested by its

1 secretary, or the executive officers corresponding ~~thereto~~ to president and secretary, and
2 subscribed by the officers and affirmed by them as true under the penalties of perjury and under
3 the seal of the parent corporation, attesting to compliance with this subsection.

4 (e) Upon compliance with this section, ownership of the shares to be acquired pursuant
5 to the plan shall vest in the parent corporation which has adopted the plan on the date of
6 acquisition proposed in the plan whether or not the certificates for the shares have been
7 surrendered for exchange. The parent corporation shall be entitled to have new certificates
8 registered in its name. Shareholders whose shares have been so acquired shall thereafter retain
9 only the right either to receive the consideration to be paid in exchange for their shares pursuant
10 to the plan or to demand appraisal pursuant to subsection (g).

11 (f) Neither the right granted by this section nor the exercise of that right by a parent
12 corporation shall preclude the exercise by the parent corporation of any other rights it may have
13 under any other applicable law.

14 (g)(1) Any shareholder of an insurance company whose shares are to be acquired by a
15 parent corporation pursuant to a plan for the acquisition of minority interests adopted under this
16 section shall have the right to dissent from the plan.

17 ~~(2)~~ ~~(1)~~ A shareholder may not dissent as to less than all of the shares registered in the
18 shareholder's name which are owned beneficially by the shareholder. A nominee or fiduciary
19 may not dissent on behalf of any beneficial owner as to less than all of the shares of the owner
20 registered in the name of the nominee or fiduciary.

21 ~~(3)~~ ~~(2)~~ Any shareholder electing to exercise the right of dissent shall file with the parent
22 corporation a written demand for payment of the fair value of the shareholder's shares within
23 fifteen (15) days after the plan shall have been mailed to the shareholder.

24 ~~(4)~~ ~~(3)~~ Any shareholder failing to make demand within the fifteen (15) day period shall
25 be bound by the terms of the plan. Any shareholder making a demand shall be entitled only to
26 payment as in this section provided and shall not be entitled to vote or to exercise any other rights
27 of a shareholder.

28 ~~(5)~~ ~~(4)~~ No demand may be withdrawn unless the parent corporation consents. If,
29 however, the demand shall be withdrawn upon consent, or if the plan shall be abandoned, or if no
30 demand or petition for the determination of fair value by a court shall have been made or filed
31 within the time provided in this section, or if a court of competent jurisdiction shall determine
32 that the shareholder is not entitled to the relief provided by this section, then the right of the
33 shareholder to be paid the fair value of his or her shares shall cease and his or her status as a

shareholder shall be restored, without prejudice to any corporate proceedings which may have been taken during the interim.

~~(6)~~ ~~(5)~~ Within ten (10) days after the effective date of the acquisition under the plan, the parent corporation shall make a written offer to each shareholder who has made demand to pay for the shares at a specified price deemed by the corporation to be fair value ~~thereof~~ of the shares. The notice and offer shall be accompanied by a balance sheet of the insurance company as of the latest available date and not more than twelve (12) months prior to the making of the offer, and a profit and loss statement of the insurance company for the twelve (12) month period ended on the date of the balance sheet.

~~(7)~~ ~~(6)~~ If within thirty (30) days after the effective date of the acquisition under the plan the fair value of the shares is agreed upon between any dissenting shareholder and the parent corporation, payment ~~therefor~~ for the shares shall be made within ninety (90) days after the effective date of the acquisition under the plan upon surrender of the certificate or certificates representing the shares. Upon payment of the agreed value, the dissenting shareholder shall cease to have any interest in the shares.

~~(8)~~ ~~(7)~~ If, within the period of thirty (30) days, a dissenting shareholder and the parent corporation do not ~~so~~ agree as provided in subdivision (g)(7), then the parent corporation shall file a petition in any court of competent jurisdiction in the county in this state where the insurance company maintains its principal office praying that the fair value of the shares be found and determined; provided, that the parent corporation shall have received a written request for the filing from any dissenting shareholder given within sixty (60) days after the effective date of the acquisition under the plan, and the parent corporation shall file the petition within thirty (30) days after receipt of the request. If no request is made, the parent corporation may at its election file a petition at any time within sixty (60) days after the effective date of the acquisition date of the plan. If the parent corporation shall fail to institute the proceeding, any dissenting shareholder may do so in the name of the parent corporation.

~~(9)~~ ~~(8)~~ The subsidiary insurance company shall join as a party petitioner in the proceeding, and in the event that the insurance company shall fail to do so, the court upon the motion of any party shall join the insurance company as a party petitioner.

~~(10)~~ ~~(9)~~ All dissenting shareholders, wherever residing, shall be made parties to the proceeding as an action against their shares quasi in rem. A copy of the petition shall be served on each dissenting shareholder who is a resident of this state and shall be served by registered or certified mail on each dissenting shareholder who is a nonresident. Service on nonresidents shall also be made by publication as provided by law. The jurisdiction of the court shall be plenary and

1 exclusive. All shareholders who are parties to the proceeding shall be entitled to judgment against
2 the parent corporation and the subsidiary insurance company jointly and severally for the amount
3 of the fair value of their shares, and execution shall issue upon the motion of any party respondent
4 against either or both of the parent corporation and the subsidiary insurance company and their
5 respective assets, and any execution so issued against the insurance company shall have priority
6 over the claims of any other shareholder.

7 (11) ~~(40)~~ The court may, if it so elects, appoint one or more persons as appraisers to
8 receive evidence and recommend a decision on the question of fair value. The appraisers shall
9 have the power and authority specified in the order of their appointment or an amendment of the
10 order. The judgment shall be payable only upon and concurrently with the surrender to the parent
11 corporation of the certificate or certificates representing the shares. Upon payment of the
12 judgment, the dissenting shareholder shall cease to have any interest in the shares.

13 (12) ~~(44)~~ The judgment shall include an allowance for interest at a rate that the court may
14 find to be fair and equitable in all the circumstances, from the date of acquisition proposed in the
15 plan to the date of payment.

16 (13) ~~(42)~~ The costs and expenses of any proceeding shall be determined by the court and
17 shall be assessed against the parent corporation, but all or any part of the costs and expenses may
18 be apportioned and assessed as the court may deem equitable against any or all of the dissenting
19 shareholders who are parties to the proceeding to whom the parent corporation shall have made
20 an offer to pay for the shares, if the court shall find that the action of the shareholders in failing to
21 accept the offer was arbitrary or vexatious or not in good faith. The expenses shall include
22 reasonable compensation for and reasonable expenses of the counsel for any experts employed by
23 any party; but if the fair value of the share as determined materially exceeds the amount which
24 the parent corporation offered to pay, or if no offer was made, the court in its discretion may
25 award to any shareholder who is a party to the proceeding the sum as the court may determine to
26 be reasonable compensation to any expert or experts employed by the shareholder in the
27 proceeding.

28 (14) ~~(43)~~ Within twenty (20) days after demanding payment for his or her shares, each
29 shareholder demanding payment shall submit the certificate or certificates representing his or her
30 shares to the parent corporation for notation ~~thereon~~ on the certificate or certificates that the
31 demand has been made. The shareholder's failure to do so shall, at the option of the parent
32 corporation, terminate the shareholder's rights under this subsection unless a court of competent
33 jurisdiction, for good and sufficient cause shown, otherwise directs. If shares represented by a
34 certificate on which notation has been so made shall be transferred, each new certificate issued

1 shall bear similar notation, together with the name of the original dissenting holder of the shares,
2 and a transferee of the shares shall acquire by transfer no rights in the insurance company other
3 than those which the original dissenting shareholder had after making demand for payment of the
4 fair value ~~thereof~~ of the shares.

5 **27-1-40. Conversion to stock form of organization.** -- (a) Any mutual insurance
6 company created under the laws of this state which meets or exceeds all capital and surplus funds
7 required by law for the transaction of business in Rhode Island may convert to and become an
8 insurance company with a capital stock form of organization upon adoption of a plan of
9 conversion by two-thirds (2/3) vote of the board of directors or other governing body and
10 approval of the plan by the director of the department of business regulation and the affirmative
11 vote of one half (1/2) of its members or policyholders present in person or by proxy at a meeting
12 called by the board of directors or other governing body. Unless otherwise provided in its charter
13 or ~~by laws~~ bylaws or plan of conversion, each member or policyholder shall have one vote, and in
14 the case of any policy or contract of group life or other group insurance, the employer or other
15 person to whom or in whose name the master policy or contract has been issued shall be deemed
16 to be the member or policyholder and shall be entitled to one vote for each policy or contract of
17 group insurance irrespective of the number of individuals insured. The plan of conversion shall
18 provide that the insurance company shall issue and sell the stock issued in connection with the
19 conversion at a price which represents its pro forma market value, as determined by an
20 independent appraisal, and shall offer its stock, initially, in a subscription offering to the members
21 or policyholders, individuals in the insurance company's management, and employee groups of
22 the insurance company on an eligibility record date established by the board of directors, giving
23 the members or policyholders, individuals in the insurance company's management, and
24 employee groups priority rights to purchase the shares over the general public pro rata. The plan
25 of conversion may provide for the establishment of accounts for the benefit of members or
26 policyholders pursuant to which the converting insurance company shall provide for the
27 continued maintenance of its dividend practices required by existing charter, ~~by laws~~ bylaws, or
28 policy provisions relative to its then existing lines of business, but assets in the account will be
29 assets of the converting insurance company, subject to liabilities in the same manner and priority
30 as all other assets of the company. The plan of conversion may provide for restrictions on the
31 amount of stock which any person or entity may purchase in the conversion, or own or control
32 ~~thereafter~~ after this, which may also be incorporated into the stock charter or agreement of
33 association of the converted entity.

1 (b) In connection with the conversion, the insurance company may form a holding
2 company or utilize an existing holding company to hold all the shares of the converted entity, and
3 offer to its members or policyholders and the general public, subject to subscription rights in
4 favor of members or policyholders as stated ~~above~~ in subsection (a), all of the stock of the
5 holding company in lieu of the capital stock of the converting insurance company. The converting
6 insurance company may, at the time of the conversion, merge any insurance company subsidiary
7 into the capital stock entity resulting from the conversion, or cause the subsidiary to become a
8 separate subsidiary of a holding company.

9 (c) The corporate existence of an insurance company converting to the stock form of
10 organization shall not terminate, but the converted institution shall be deemed to be a
11 continuation of entity of the converted insurance company ~~so converted~~.

12 (d) The director of the department of business regulation, upon finding that the
13 requirements of this section and applicable regulations have been met, that the terms and
14 conditions of the plan are fair and equitable, and that the conversion has been completed with the
15 sale of all shares offered in the conversion, shall issue a certificate of approval of the conversion
16 to the converted entity. Upon the payment of fifty dollars (\$50.00), the certificate of approval
17 shall be filed in the office of the secretary of state, together with the certificate of the general
18 treasurer that the converted entity has paid into the treasury for the use of the state a sum equal to
19 one-tenth of one percent (.1%) of the capital stock, but in no event less than ten thousand dollars
20 (\$10,000). Upon the filing of the certificate with the secretary of state and payment of fifty dollars
21 (\$50.00), the secretary of state shall immediately record the certificate of approval and stock
22 charter or agreement of association, ~~whereupon~~ then the stock charter or agreement of association
23 will become effective.

24 (e) The director of the department of business regulation may employ staff personnel ~~as~~
25 ~~well as and~~ professional consultants and other persons to assist in the review of the plan of
26 conversion and may hold public hearings as, in the director's discretion, are desirable prior to
27 granting approval of the plan of conversion. All reasonable costs related to the review of the plan
28 of conversion, including the costs attributable to staff personnel and professional consultants,
29 shall be borne by the insurance company filing a plan of conversion for approval.

30 (f) The department of business regulation shall issue rules and regulations implementing
31 this section, which shall be administered by the director of the department of business regulation.

32 (g) To the extent not inconsistent ~~herewith~~ with this section, each insurance company
33 converted into a capital stock insurance company shall have all the powers, privileges, including
34 the right to merge, convert, or otherwise restructure its corporate form upon a two-thirds (2/3)

1 vote of its stockholders and subject to any regulatory approval as required by law, and duties and
2 liabilities imposed upon insurance companies generally under the laws of this state, as applicable.
3 Unless otherwise governed by the laws of this state specifically applicable to insurance
4 companies, a capital stock entity converted pursuant to this section shall be subject to the general
5 provisions of the Rhode Island Business Corporation Act, chapter 1.1 of title 7, with respect to its
6 corporate governance.

7 SECTION 6. Section 27-1.1-4 of the General Laws in Chapter 27-1 entitled “Credit for
8 Reinsurance Act” is hereby amended to read as follows:

9 **27-1.1-4. Rules and regulations.** -- The commissioner may adopt reasonable
10 rules and regulations implementing the provisions of this law.

11 SECTION 7. Section 27-1.1-8 of the General Laws in chapter 27-1 entitled
12 “Credit for Reinsurance Act” is hereby repealed.

13 ~~**27-1.1-8. Regulations.** -- The commissioner may adopt reasonable rules and regulations~~
14 ~~for the implementation of this chapter.~~

15 SECTION 8. Section 27-2-25 of the General Laws in Chapter 27-2 entitled “Foreign
16 Insurance Companies” is hereby amended to read as follows:

17 **27-2-25. Notice of revocation or suspension of license.** -- The insurance
18 commissioner shall give written notice to the company specifying the date on which any
19 revocation or suspension shall be effective, the term of any suspension, and the ground
20 for the revocation or suspension; provided, that if the ground for revocation or suspension
21 is that the company has violated any provision of law or has failed to comply with its
22 charter, the effective date of the revocation or suspension shall be not less than ten (10)
23 days from the date of issue of the notice, and the particulars of the violation or failure to
24 comply with its charter shall be specified in the notice. The notice shall be served by
25 registered or certified mail, sent postage prepaid, and addressed to the company at its last
26 home office address, or in the case of a company of a foreign country, sent to its resident
27 manager in the United States or at his last address appearing on the records of the
28 insurance commissioner. An affidavit of the insurance commissioner in any form as the
29 commissioner may prescribe, or of anyone authorized by him or her to give notice,
30 appended to a copy ~~thereof~~ of the notice, that the notice has been mailed as provided
31 ~~above~~ in this section shall be prima facie evidence that the notice has been duly given.
32 The insurance commissioner shall also cause notice of the revocation or suspension to be

1 published in any manner as the commissioner may deem necessary for the protection of
2 the public.

3 SECTION 9. Section 27-2.1-4 of the General Laws in Chapter 27-2.1 entitled
4 “Additional Fees for Foreign Insurance Companies” is hereby amended to read as
5 follows:

6 **27-2.1-4. Use of fees.** -- Any and all fees as prescribed by this ~~section~~ chapter
7 shall be paid to the general treasurer of the state of Rhode Island.

8 SECTION 10. Sections 27-2.4-20 of the General Laws in Chapter 27-2.4 entitled
9 “Producer Licensing Act” is hereby amended to read as follows:

10 **27-2.4-20. Revocation or modification of insurance producer’s contract —**
11 **Procedures.** -- (a) No company shall cancel the authority of an insurance producer, if the
12 insurance producer is not an employee of the company, and no company shall modify a contract
13 with that insurance producer unless the company gives written notice of its intent to cancel that
14 insurance producer or its intent to modify the contract at least one hundred eighty (180) days
15 before the proposed effective date of any cancellation or at least one hundred eighty (180) days
16 before the proposed effective date of any modification. No company shall allow the license of
17 that insurance producer to expire unless the company gives written notice of its intent to do so at
18 least one hundred eighty (180) days before the proposed effective date of expiration because of
19 cancellation. Except as otherwise provided in this section, any insurance producer receiving
20 notice of cancellation, modification, or expiration may, within sixty (60) days after receipt of the
21 notice, make a written demand for reference to three (3) referees of the question as to whether or
22 not the cancellation, modification, or expiration will ~~so~~ affect the renewal, continuation, or
23 replacement of any policies placed with the company through the efforts of the insurance
24 producer, or the services needed by any policyholder doing business with the company as a result
25 of the efforts of the insurance producer, as to justify renewal or continuation of any policies then
26 in effect having been placed with the company by that insurance producer. In the event the
27 referees find that the cancellation, modification, or expiration will ~~so~~ affect the renewal,
28 continuation, or replacement of any policies placed with the company through the efforts of the
29 insurance producer, or the services needed by any policyholders doing business with the company
30 as a result of the efforts of the insurance producer, then the referees shall order continuance or
31 renewal of any policies expiring within a period of twelve (12) months of the issuance of the
32 notice, at a rate of compensation to the insurance producer equal to that as provided in the
33 agreement expiring or being ~~so~~ cancelled or modified, for one additional policy period equal in

length to the most recent policy period of the expiring policy, but in no event for more than one year. ~~However, the~~ The referees shall not order continuance or renewal of any policies if they find that the reason for the cancellation or expiration of the agreement by the company was legitimately based upon one of the following grounds:

(1) The insurance producer was convicted of a dishonest act related to his or her occupation as an insurance agent;

(2) The insurance producer's license to engage as an insurance producer was revoked; or

(3) The company surrendered its license to do business in the state.

(b) An insurance producer making a written demand for a reference shall accompany the written demand with the names and addresses of three (3) persons, whereupon the company shall, within fifteen (15) days, notify the insurance producer of its choice of one of the persons to act as one of the referees and at the same time submit the names and addresses of three (3) persons to the insurance producer, who shall, within fifteen (15) days after receiving these names, notify the company in writing of his her choice of one of the persons to act as a second referee. At the same time the insurance producer shall notify the commissioner, the notice to be on a form prescribed by the commissioner, that both the company and insurance producer have chosen referees. Within ten (10) days of the receipt of this notice the commissioner shall appoint a person to serve as third referee, and shall notify that person, the insurance producer, and the company in writing of this appointment. Each person nominated or appointed as a referee shall be a disinterested person, shall be a resident of the state, and shall be willing to act as a referee. Within ten (10) working days of the appointment of the third referee, who shall serve as chairperson, the three (3) referees shall meet, hear evidence, and reduce their decisions to writing and sign it, and shall deliver a copy of the decision to the insurance producer, to the company, and to the commissioner. In the event any company receiving a written demand for a reference fails to comply with the provisions of this subsection, then the insurance producer shall have the authority to renew or continue any policies placed with that company through the efforts of the insurance producer expiring within a period of thirteen (13) months from the date of the notice of cancellation, modification, or expiration of the agreement, at a rate of compensation to the insurance producer equal to that as provided in the agreement expiring or being ~~so~~ cancelled or modified, for one additional policy period equal in length to the most recent policy period of the expiring policy, but in no event for more than one year.

(c) Any insurance company and any insurance producer may by written contract agree to modify the provisions of subsections (a) and (b) of this section other than the requirement of a one hundred eighty (180) day notice in the event of cancellation or a one hundred eighty (180)

1 day notice in the event of modification of a contract or of intent to allow the expiration of a
2 license, by provisions presented to and approved by the commissioner which he or she finds after
3 due hearing and investigation will adequately protect both the right of the policyholder to a
4 continuance of insurance and the services of any insurance producer of his or her own choosing
5 and the right of the insurance producer to fair compensation for the insurance placed with a
6 company as a result of the insurance producer's efforts. The commissioner may make reasonable
7 rules of general application regarding these modified provisions.

8 (d) The decision of the referees may provide for the renewal or continuance of any or all
9 policies expiring within a period of twelve (12) months of the issuance of any notice, at a rate of
10 compensation to the insurance producer equal to that as provided in the agreement expiring or
11 being ~~so~~ cancelled or modified, for one additional policy period equal in length to the most recent
12 policy period of the expiring policy, but in no event for more than one year. The decision of the
13 referees may also provide for the continuance of previous contractual provisions, if the referees,
14 or a majority of them, find that the decision will best protect the right of a policyholder to a
15 continuance of insurance and the services of an insurance producer of his or her own choosing
16 and the right of any insurance producer to compensation for the insurance placed with a company
17 as a result of his or her efforts, giving due consideration to the possibility the affected insurance
18 producer has of obtaining similar coverage for policyholders affected from other companies at
19 reasonable compensation. The decisions rendered in accordance with the provisions of this
20 section providing for reference shall be binding on all companies and insurance producer affected
21 by those decisions. If a decision orders the renewal or continuance of any policies, policyholders
22 and the affected insurance producer shall be entitled in all respects to the same services and
23 practices as were in effect prior to reference insofar as amounts and types of coverage, credit
24 terms, commissions paid to the insurance producer, and insurance producer services are also
25 continued.

26 (e) All policies expiring within twelve (12) months of the notice may be renewed for the
27 policy periods as provided in subsection (d) of this section ~~above~~, but no insurance producer or
28 company relying on this section shall again refer the same issue to referees. Where other
29 provisions of the general laws require notice to policyholders before non -renewal of any
30 coverages, the company shall, at the request of the insurance producer who is unable to replace
31 any policy which has been renewed for one or more policy periods in accordance with this
32 section, comply with those provisions of law.

33 (f) An insurance producer initiating reference under this section and the company
34 receiving written demand shall each be liable for the payment of the reasonable charges

1 and expenses of his or her nominee for referee and one-half (1/2) of the compensation for
2 the reasonable charges and expenses of the third referee. The third referee shall upon the
3 execution of the decision furnish the insurance producer and the company with a written
4 statement specifying in detail his or her charges for compensation and expenses. The
5 insurance producer or the company, if aggrieved by these charges, may petition the
6 commissioner for review. The petition shall set forth with particularity the specific item
7 or charges in dispute. The commissioner shall, within ten (10) days of receipt of the
8 petition, notify the interested parties of the date established for a hearing on the petition
9 and, after the hearing, the commissioner shall approve or disapprove the charges in whole
10 or in part, his or her findings and decisions shall be final and conclusive.

11 SECTION 11. Sections 27-3.2-5 and 27-3.2-9 of the General Laws in chapter 27-
12 3.2 entitled "Continuing Education Requirements" are hereby amended to read as
13 follows:

14 **27-3.2-5. Continuing education advisory board.** -- There shall hereby be is established
15 the continuing education advisory board. This board shall consist of two (2) representatives of the
16 Rhode Island Life Underwriters Association, three (3) representatives of the Independent
17 Insurance Agents of Rhode Island, two (2) representatives of the Chartered Life Underwriters,
18 and two (2) representatives of the Chartered Property and Casualty Underwriters. The board
19 members shall be appointed by the commissioner and shall serve two (2) year terms; ~~provided,~~
20 ~~however, that the initial term of one representative of each of the above organizations shall be one~~
21 ~~year.~~ The board shall meet at least once a year and additionally as required. This board shall
22 advise the insurance commissioner on the plans and operations of the continuing education
23 program for any person licensed pursuant to this title and not exempt under § 27-3.2-3.

24 **27-3.2-9. Fee.** -- Notwithstanding any provision of the general laws to the contrary, there
25 is hereby established a fee of five dollars (\$5.00) per annum, which shall be paid by all persons
26 licensed pursuant to chapter ~~2-3~~ 2.4 of this title, and shall be deposited as general revenues.

27 SECTION 12. Sections 27-4-6, 27-4-13.1, 27-4-17, 27-4-18 and 27-4-22 of the General
28 Laws in chapter 27-4 entitled "Life Insurance Policies and Reserves" are hereby amended to read
29 as follows:

30 **27-4-6. Terms to be stated in policy — Rebates prohibited.** -- (a) No life insurance
31 corporation doing business in this state, nor any insurance producer ~~thereof~~ of the corporation,
32 shall permit, offer, or make any contract of insurance or agreement as to any contract other than
33 as plainly expressed in the policy issued ~~thereon~~ on the contract or agreement; nor shall any

1 company or any officer, insurance producer, or representative ~~thereof~~ of the company or producer
2 pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as inducement to any
3 person to insure, or give, sell, or purchase, or offer to give, sell, or purchase as an inducement or
4 in connection with any insurance, any stocks, bonds, or other securities of any insurance company
5 or other corporation, association, or partnership, or any dividends or profits accruing ~~thereon~~ on
6 the securities, or any valuable consideration or inducement whatever not specified in the policy,
7 nor shall any person knowingly receive as an inducement any rebate of premium, or any special
8 favor or advantage in the dividends or other benefits, ~~to accrue thereon~~, or any paid employment
9 or contract for services of any kind, or any valuable consideration or inducement whatever, not
10 specified in the policy.

11 ~~(b) Provided, however, that~~ Nothing in this section shall be construed as to forbid a
12 company transacting industrial insurance on a weekly payment plan from returning to
13 policyholders who have made premium payments for a period of at least one year, directly to the
14 company at its home or district offices, a percentage of the premium which the company would
15 have paid for the weekly collection of the premiums.

16 **27-4-13.1. Policy loan interest rates.** -- (a) ~~The term~~ “Published monthly average”
17 means:

18 (1) Moody’s corporate bond yield average — monthly average corporates, as published
19 by Moody’s Investors Service, Inc. or any successor; ~~thereto~~; or

20 (2) In the event that the Moody’s corporate bond yield average — monthly average
21 corporates is no longer published, a substantially similar average, established by regulation issued
22 by the commissioner.

23 (b) (1) Policies issued on or after May 25, 1982, shall provide for policy loan interest
24 rates as follows:

25 (i) A provision permitting a maximum interest rate of not more than eight percent (8%)
26 per annum; or

27 (ii) A provision permitting an adjustable maximum interest rate established from time to
28 time by the life insurer as permitted by law.

29 (2) The rate of interest charged on a policy loan made under subdivision (b)(1)(ii) shall
30 not exceed the higher of the following:

31 (i) The published monthly average for the calendar month ending two (2) months before
32 the date on which the rate is determined; or

33 (ii) The rate used to compute the cash surrender values under the policy during the
34 applicable period plus one percent (1%) per annum.

(3) If the maximum rate of interest is determined pursuant to subdivision (b)(1)(ii), the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy.

(4) The maximum rate for each policy must be determined at regular intervals at least once every twelve (12) months, but not more frequently than once in any three (3) month period. At the intervals specified in the policy:

(i) The rate being charged may be increased ~~whenever~~ an increase as determined under subdivision (b)(2) would increase that rate by one half of one percent (.5%) or more per annum;

(ii) The rate being charged must be reduced ~~whenever~~ a reduction as determined under subdivision (b)(2) would decrease that rate by one half of one percent (.5%) or more per annum.

(5) The life insurer shall:

(i) Notify the ~~policy holder~~ **policyholder** at the time a cash loan is made of the initial rate of interest on the loan;

(ii) Notify the ~~policy holder~~ **policyholder** with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan.

Notice does not need ~~not to~~ be given to the policyholder when a further premium loan is added, except as provided in subdivision (b)(5)(iii);

(iii) Send to policyholders with loans reasonable advance notice of any increase in the rate; and

(iv) Include in the notices required ~~above~~ in subdivision (5) of this section the substance of the pertinent provisions of subdivisions (b)(1) and (b)(3).

(6) No policy shall terminate in a policy year as the sole result of a change in the interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which it would ~~otherwise~~ have terminated if there had been no change during that policy year.

(7) The substance of the pertinent provisions of subdivisions (b)(1) and (b)(3) shall be set forth in the policies to which they apply.

(8) For purposes of this section:

(i) The rate of interest on policy loans permitted under this section includes the interest rate charged on the reinstatement of policy loans for the period during and after any lapse of a policy;

(ii) ~~The term~~ "Policy loan" includes any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they ~~fell~~ became due;

(iii) ~~The term~~ “Policyholder” includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer; and

(iv) ~~The term~~ “Policy” includes certificates issued by a fraternal benefit society and annuity contracts ~~which that~~ provide for policy loans.

(9) No other provision of law shall apply to policy loan interest rates unless made specifically applicable to those rates.

(c) The provisions of this section shall not apply to any insurance contract issued before May 25, 1982, unless the policyholder agrees in writing to the applicability of this section.

27-4-17. Annual valuation of policies and reserves. -- a) The director of business regulation shall ~~annually make annual~~ valuations of all outstanding policies, additions ~~thereto to~~ policies, unpaid dividends, and all other obligations of every life insurance corporation doing business in this state. All valuations made by the director, or by his or her authority, shall be made upon the net premium basis. The legal minimum standard for valuation of contracts issued before January 1, 1907, shall be the American experience table of mortality with the interest at four percent (4%) per annum, and for contracts issued on or after that date the same table of mortality with interest at three and one-half percent (3 1/2%) per annum. Any company may adopt as a legal minimum standard, for the valuation of life insurance policies issued on or after January 1, 1948, the commissioners reserve valuation method, with interest at three and one-half percent (3 1/2%) per annum, or in the case of policies issued on or after April 17, 1975, four percent (4%) per annum for policies issued prior to April 27, 1979, and four and one-half percent (4 1/2%) per annum for policies issued on or after April 27, 1979, and either the commissioners 1941 standard ordinary mortality table or the commissioners 1958 standard ordinary mortality table for ordinary policies, and either the 1941 standard industrial mortality table or the commissioners 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for industrial policies, for industrial policies in lieu of the legal minimum standard ~~hereinaabove~~ allowed by this section.

(b) The interest rates used in determining the minimum standard for the valuation of all life insurance policies issued in a particular calendar year on or after May 15, 1981, shall be the calendar year statutory valuation interest rates as defined in this section.

(c) (1) The calendar year statutory valuation interest rates shall be determined as follows and the results rounded to the nearer one-quarter of one percent (.25%):

For life insurance:

1 $I = .03 + W (R1 - .03) + W/2 (R1 - .09)$; where R1 is the lesser of R and .09, R2 is the greater of
2 R and .09, R is the reference interest rate defined in this section, and W is the weighting factor
3 defined in this section;

4 (2) ~~However, if~~ If the calendar year statutory valuation interest rate for any life insurance
5 policies issued in any calendar year determined without reference to subdivision (c)(1) differs
6 from the corresponding actual rate for similar policies issued in the immediately preceding
7 calendar year by less than one-half of one percent (.5%), the calendar year statutory valuation
8 interest rate for these life insurance policies shall be equal to the corresponding actual rate for the
9 immediately preceding calendar year. For the purposes of applying the provisions in this
10 subdivision ~~the immediately preceding sentence~~, the calendar year statutory valuation interest rate
11 for life insurance policies issued in a calendar year shall be determined for 1980 using the
12 reference interest rate defined for 1979 and shall be determined for each subsequent calendar
13 year.

14 (3) The weighting factors referred to in the formula stated ~~above~~ in subdivision (c)(1) are
15 given in the following table:

16

17 Weighting Factors for Life Insurance:

18 Guarantee	
19 Duration	Weighting
20 (Years)	Factors
21 10 or less	.50
22 More than 10, but not more than 20	.45
23 More than 20	.35

24 For life insurance, the guarantee duration is the maximum number of years the life insurance
25 can remain in force on a basis guaranteed in the policy or under options to convert to plans of life
26 insurance with premium rates or non-forfeiture values or both which are guaranteed in the
27 original policy.

28 (4) The reference interest rate referred to in subdivision (c)(1) shall be defined as follows:

29 (i) For all life insurance, the lesser of the average over a period of thirty-six (36) months
30 and the average over a period of twelve (12) months, ending on June 30 of the calendar year next
31 preceding the year of issue, of Moody's corporate bond yield average — monthly average
32 corporates, as published by Moody's Investors Service, Inc., or any successor; ~~thereto~~; or

33 (ii) In the event that the Moody's corporate bond yield average — monthly average
34 corporates is no longer published by Moody's Investors Service, Inc., or in the event that the

1 National Association of Insurance Commissioners determines that the Moody's corporate bond
2 yield average — monthly average corporates, as published by Moody's Investors Service, Inc., is
3 no longer appropriate for the determination of the reference interest rate, then an alternative
4 method for determination of the references interest rate, which is adopted by the National
5 Association of Insurance Commissioners and approved by regulation promulgated by the
6 commissioner, may be substituted.

7 (d) The mortality table used in determining the minimum standard for the valuation of
8 ordinary life insurance policies issued on or after May 15, 1981, shall be:

9 (1) The commissioners 1980 standard ordinary mortality table;

10 (2) At the election of the company for any one or more specified plans of life insurance,
11 the commissioners 1980 standard ordinary mortality table with ten (10) year select mortality
12 factors; or

13 (3) Any ordinary mortality table, adopted after 1980 by the National Association of
14 Insurance Commissioners, that is approved by regulation promulgated by the commissioner for
15 use in determining the minimum standard of valuation for these policies.

16 (e) Reserves for any category of policies or contracts may be calculated, at the option of
17 the insurer, according to any standard or standards which produce greater aggregate reserves for
18 all policies or contracts than the legal minimum standard or standards.

19 **27-4-18. Variance from valuation standards.** -- The director of business regulation may
20 vary the standards of interest and mortality in the case of corporations from foreign countries as
21 to contracts issued by these corporations in countries other than the United States, and in
22 particular cases of invalid lives and other extra hazards, and value policies seriatim or in groups,
23 use approximate averages for fractions of a year and otherwise, and accept the valuation of the
24 department of insurance of any other state or country if made upon the basis of, and according to,
25 standards not lower than ~~herein~~ required or authorized by §§ 27-4-17 — 27-4-20, in place of the
26 valuation ~~herein~~ required by §§ 27-4-17 — 27-4-20.

27 **27-4-22. Assignment of interest under group life insurance.** -- Subject to the terms of
28 the policy relating to assignment of incidents of ownership ~~thereunder~~ under the policy, a person
29 whose life is insured under a policy of group life insurance may assign any or all incidents of
30 ownership granted that person under the policy, including but not limited to any right to designate
31 a beneficiary, to have an individual policy issued to him or her, and to pay premiums. Any
32 assignment by the insured, ~~made either before or after May 7, 1970,~~ shall be valid for the purpose
33 of vesting in the assignee, in accordance with any provisions included ~~therein~~ in the policy as to
34 the time at which it is to be effective, all of the incident of ownership so assigned, but without

1 prejudice to the insurer on account of any payment it may make or individual policy it may issue
2 without notice of the assignment. ~~This section shall be construed as being declaratory of the law~~
3 ~~in effect prior to May 7, 1970 and not as modifying, altering, or amending that law.~~

4 SECTION 13. Section 27-4.2-5 of the General Laws in chapter 27-4.2 entitled "Life and
5 health Reinsurance Agreements Act" is hereby repealed.

6 ~~**27-4.2-5. Existing agreements.** Insurers subject to this chapter shall reduce to zero (0)~~
7 ~~by December 31, 1997, any reserve credits or assets established with respect to reinsurance~~
8 ~~agreements entered into prior to the effective date of this law which, under the provisions of this~~
9 ~~law would not be entitled to recognition of the reserve credits or assets; provided, however, that~~
10 ~~the reinsurance agreements shall have been in compliance with laws or regulations in existence~~
11 ~~immediately preceding the effective date of this regulation.~~

12 SECTION 14. Sections 27-4.3-5 and 27-4.3-8 of the General Laws in Chapter 27-4.3
13 entitled "The Standard Nonforfeiture Law for Life Insurance" are hereby amended to read as
14 follows:

15 **27-4.3-5. Calculations of adjusted premiums by the nonforfeiture net level premium**
16 **method.** -- (a) This section shall apply to all policies issued on or after January 1, 1994. Except
17 as provided in subsection (g) of this section, the adjusted premiums for any policy shall be
18 calculated on an annual basis and shall be a uniform percentage of the respective premiums
19 specified in the policy for each policy year, excluding amounts payable as extra premiums to
20 cover impairments or special hazards, and also excluding any uniform annual contract charge or
21 policy fee specified in the policy in a statement of the method to be used in calculating the cash
22 surrender values and paid up nonforfeiture benefits, so that the present value, at the date of issue
23 of the policy, of all adjusted premiums shall be equal to the sum of: (1) the then present value of
24 the future guaranteed benefits provided for by the policy; (2) one percent (1%) of either the
25 amount of insurance, if the insurance be uniform in amount, or the average amount of insurance
26 at the beginning of each of the first ten (10) policy years; and (3) one hundred twenty-five percent
27 (125%) of the nonforfeiture net level premium as ~~hereinafter~~ defined in subsection (b); provided,
28 however, that in applying the percentage specified in ~~(item 3) above~~ subdivision (a)(3), no
29 nonforfeiture net level premium shall be deemed to exceed four percent (4%) of either the amount
30 of insurance, if the insurance is uniform in amount, or the average amount of insurance at the
31 beginning of each of the first ten (10) policy years. The date of issue of a policy for the purpose
32 of this section shall be the date as of which the rated age of the insured is determined.

33 (b) The nonforfeiture net level premium shall be equal to the present value, at the date of
34 issue of the policy, of the guaranteed benefits provided for by the policy divided by the present

value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of the policy on which a premium falls due.

(c) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums, other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums, and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(d) Except as otherwise provided in subsection (g), the recalculated future adjusted premiums for any policy shall be a uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid up nonforfeiture benefits, so that the present value, at the time of change to the newly defined benefits or premiums, of all future adjusted premiums shall be equal to the excess of: (1) the sum of: (i) the then present value of the then future guaranteed benefits provided for by the policy and (ii) the additional expense allowance, if any, over (2) the then cash surrender value, if any, or present value of any paid up nonforfeiture benefit under this policy.

(e) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of: (1) one percent (1%) of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten (10) policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten (10) policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (2) one hundred twenty-five percent (125%) of the increase, if positive, in the nonforfeiture net level premium.

(f) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing subdivision (f)(1) by subdivision (f)(2) where:

(1) Equals the sum of:

(i) The nonforfeiture net level premium applicable prior to the change multiplied by the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and

(ii) The present value of the increase in future guaranteed benefits provided for by the policy; and

(2) Equals the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(g) Notwithstanding any other provisions of this section to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides for a higher uniform amount of insurance, adjusted premiums and present values for the substandard policy may be calculated as if it were issued to provide the higher uniform amounts of insurance on the standard basis.

(h) All adjusted premiums and present values referred to in this chapter shall for all policies of ordinary insurance be calculated on the basis of ~~(1)~~ the commissioners 1980 standard ordinary mortality table or, ~~(2)~~ at the election of the insurance company for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten (10) year select mortality factors; adjusted premiums and present values shall for all policies of industrial insurance be calculated on the basis of the commissioners 1961 standard industrial mortality table; and adjusted premiums and present values shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section, for policies issued in that calendar year; provided, however, that:

(1) At the option of the insurance company, calculations for all policies issued in a particular calendar may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this section, for policies issued in the immediately preceding calendar year;

(2) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by § 27-4.3-2, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of any paid-up nonforfeiture benefit and paid-up dividend additions, if any;

(3) An insurance company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values;

(4) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1980 extended term insurance table for policies

of ordinary insurance and not more than the commissioners 1961 industrial extended term insurance table for policies of industrial insurance;

(5) For insurance issued on a substandard basis, the calculation of any adjusted premiums and present values may be based on appropriate modifications of the ~~aforementioned~~ tables mentioned in this subsection;

(6) Any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner of insurance for use in determining the minimum nonforfeiture standard, may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten (10) year select mortality factors or for the commissioners 1980 extended term insurance table; and

(7) Any industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner of insurance for use in determining the minimum nonforfeiture standard, may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table.

(i) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred and twenty-five percent (125%) of the calendar year statutory valuation interest rate for the policy as defined in chapter 4.5 of this title, rounded to the nearer one-quarter of one percent (~~1/4 of 1%~~) (.25%).

(j) Notwithstanding any other provision in this title to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

27-4.3-8. Consistency of progression of cash surrender values with increasing policy duration. -- (a) This section, in addition to all other applicable sections of this chapter, shall apply to all policies issued on or after January 1, 1994. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two tenths of one percent (.2%) of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years, from the sum of: (1) the greater of zero (0) and the basic cash value ~~hereinafter~~ specified in subsection (b), and (2) the present value of any existing paid up additions less the amount of any indebtedness to the insurance company under the policy.

(b) The basic cash value shall be equal to the present value, on the anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the insurance company, if there had been no default, less the then present value of the nonforfeiture factors, as defined in this section, corresponding to premiums which would have fallen due on and after the anniversary; provided, ~~however,~~ that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in § 27-4.3-3 or 27-4.3-5, whichever is applicable, shall be the same as are the effects specified in § 27-4.3-3 or 27-4.3-5, whichever is applicable, on the cash surrender values defined in that section.

(c) The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in § 27-4.3-5. Except as is required ~~by the next succeeding sentence of~~ in this subsection, the percentage:

(1) Must be the same percentage for each policy year between the second policy anniversary and the later of: (i) the fifth policy anniversary, and (ii) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two tenths of one percent (.2%) of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and

(2) Must be such that no percentage after the later of the two policy anniversaries specified in subdivision (c)(1) may apply to fewer than five (5) consecutive policy years.

(d) No basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in § 27-4.3-5, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

(e) All adjusted premiums and present values referred to in this section shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other sections of this chapter. The cash surrender values referred to in this section shall include any endowment benefits provided for by the policy.

(f) Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid up nonforfeiture benefit available under the policy in the event of default in a premium payment, shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in §§ 27-4.3-2 — 27-4.3-5 and 27-4.3-7. The amounts of any cash surrender values and of any paid up nonforfeiture benefits granted in connection with additional benefits such as those listed

as items subdivisions ~~(4) through (6)~~ in (1) — (6) of § 27-4.3-7 shall conform with the principles of this section.

SECTION 15. Section 27-4.4-4 of the General Laws in Chapter 27-4.4 entitled “The Standard Nonforfeiture Law for Individual Deferred Annuities” is hereby amended to read as follows:

27-4.4-4. Minimum values. -- (a) The minimum values as specified in §§ 27-4.4-5 — 27-4.4-8 and 27-4.4-10 of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(b) ~~With respect to~~ In contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to that time at a rate of interest of three percent (3%) per annum of percentages of the net considerations as defined in this section paid prior to that time, decreased by the sum of:

(1) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent (3%) per annum; and

(2) The amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract.

(c) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars (\$30.00) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent ~~(87 1/2%)~~ (87.5%) of the net considerations for the second and later contract years. Notwithstanding ~~the~~ these net considerations provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net considerations for any renewal contract year **which that** exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(d) ~~With respect to~~ In contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually

1 in advance and shall be defined as for contracts with flexible considerations which are paid
2 annually with two (2) exceptions:

3 (1) The portion of the net consideration for the first contract year to be accumulated shall
4 be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus
5 twenty-two and one-half percent (~~22-1/2%~~) (22.5%) of the excess of the net consideration for the
6 first contract year over the lesser of the net considerations for the second and third contract years;
7 and

8 (2) The annual contract charge shall be the lesser of (i) thirty dollars (\$30.00) or (ii) ten
9 percent (10%) of the gross annual consideration.

10 (e) ~~With respect to~~ In contracts providing for a single consideration, minimum
11 nonforfeiture amounts shall be defined as for contracts with flexible considerations except that
12 the percentage of net consideration used to determine the minimum nonforfeiture amount shall be
13 equal to ninety percent (90%) and the net consideration shall be the gross consideration less a
14 contract charge of seventy-five dollars (\$75.00).

15 SECTION 16. Sections 27-4.5-3, 27-4.5-4.1, and 27-4.5-5 of the General Laws in
16 Chapter 27-4.5 entitled "The Standard Valuation Law" are hereby amended to read as follows:

17 **27-4.5-3. Actuarial opinion of reserves.** ~~-- (a) This section shall become operative at~~
18 ~~the end of the first full calendar year following the year of enactment.~~

19 (a) ~~(b)~~ *General.* Every life insurance company doing business in this state shall annually
20 submit the opinion of a qualified actuary as to whether the reserves and related actuarial items
21 held in support of the policies and contracts specified by the commissioner of insurance by
22 regulation are computed appropriately, are based on assumptions which satisfy contractual
23 provisions, are consistent with prior reported amounts, and comply with applicable laws of this
24 state. The commissioner of insurance by regulation shall define the specifics of this opinion and
25 add any other items deemed to be necessary to its scope.

26 (b) ~~(c)~~ *Actuarial analysis of reserves and assets supporting the reserves.*

27 (1) Every life insurance company, except as exempted by or pursuant to regulation, shall also
28 annually include in the opinion required by subsection ~~(b)~~ (a); an opinion of the same qualified
29 actuary as to whether the reserves and related actuarial items held in support of the policies and
30 contracts specified by the commissioner of insurance by regulation, when considered in light of
31 the assets held by the company with respect to the reserves and related actuarial items, including,
32 but not limited to, the investment earnings on the assets and the considerations anticipated to be
33 received and retained under the policies and contracts, make adequate provision for the

company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(2) The commissioner of insurance may provide by regulation for a transition period for establishing any higher reserves ~~which that~~ the qualified actuary may deem necessary in order to render the opinion required by this section.

(c) ~~(d)~~ *Requirement for opinion under subsection (e)(b).* Each opinion required by subsection ~~(e)(b)~~ shall be governed by the following provisions:

(1) A memorandum, in form and substance acceptable to the commissioner of insurance as specified by regulation, shall be prepared to support each actuarial opinion; and

(2) If the insurance company fails to provide a supporting memorandum at the request of the commissioner of insurance within a period specified by regulation or the commissioner of insurance determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the regulations or is otherwise unacceptable to the commissioner of insurance, the commissioner of insurance may engage a qualified actuary for the opinion and prepare the supporting memorandum ~~as is~~ required by the commissioner of insurance.

(d) ~~(e)~~ *Requirement for all opinions.* Every opinion shall be governed by the following provisions:

(1) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1994;

(2) The opinion shall apply to all business in force including individual and group health insurance plans, in a form and substance acceptable to the commissioner of insurance as specified by regulation;

(3) The opinion shall be based on standards adopted ~~from time to time~~ by the actuarial standards board and on any additional standards as that commissioner of insurance may by regulation prescribe;

(4) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner of insurance may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner of insurance determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state;

(5) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in the regulations;

(6) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurance company and the commissioner of insurance, for any act, error, omission, decision, or conduct with respect to the actuary's opinion;

(7) Disciplinary action by the commissioner of insurance against the company or the qualified actuary shall be defined in regulations by the commissioner of insurance; and

(8) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner of insurance in connection ~~therewith~~ with the opinion, shall be kept confidential by the commissioner of insurance and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by regulations promulgated ~~hereunder~~ under this section; provided, ~~however~~, that the memorandum or other material may ~~otherwise~~ be released by the commissioner of insurance (i) with the written consent of the company or (ii) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner of insurance for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

27-4.5-4.1. Computation of minimum standard by calendar year of issue. -- (a)

Applicability. ~~of this section.~~ The interest rates used in determining the minimum standards for the valuation of: (1) all life insurance policies issued on or after January 1, 1994; (2) all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1994; (3) all annuities and pure endowments purchased in a particular calendar year on or after January 1, 1994, under group annuity and pure endowment contracts; and (4) the net increase, if any, in a particular calendar year after January 1, 1994, in amounts held under guaranteed interest contracts; shall be the calendar year statutory valuation interest rates as defined in this section.

(b) *Calendar year statutory valuation interest rates.*

(1) The calendar year statutory valuation interest rates, "I", shall be determined as follows and the results rounded to the nearer one-quarter of one percent ~~(1/4 of 1%)~~ (.25%), where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate as defined in this section, and W is the weighting factor as defined in this section:

(i) For life insurance:

$$I = .03 + W(R1 - .03) + W/2(R2 - .09);$$

1 (ii) For single premium immediate annuities and for annuity benefits involving life
2 contingencies arising from other annuities with cash settlement options and from guaranteed
3 interest contracts with cash settlement options:

4
$$I = .03 + W(R1 - .03);$$

5 (iii) For other annuities with cash settlement options and guaranteed interest contracts
6 with cash settlement options, valued on an issued year basis, except as stated in subdivision
7 (b)(1)(ii), the formula for life insurance stated in subdivision (b)(1)(i) shall apply to annuities and
8 guaranteed interest contracts with guarantee durations in excess of ten (10) years and the formula
9 for single premium immediate annuities stated in subdivision (b)(1)(ii) shall apply to annuities
10 and guaranteed interest contracts with guarantee duration of ten (10) years or less;

11 (iv) For other annuities with no cash settlement options and for guaranteed interest
12 contracts with no cash settlement options, the formula for single premium immediate annuities
13 stated in subdivision (b)(1)(ii) shall apply; and

14 (v) For other annuities with cash settlement options and guaranteed interest contracts with
15 cash settlement options, valued on a change in fund basis, the formula for single premium
16 immediate annuities stated in subdivision (b)(1)(ii) shall apply; and

17 (2) If, however, the calendar year statutory valuation interest rate for any life insurance
18 policies issued in any calendar year determined without reference to this subsection differs from
19 the corresponding actual rate for similar policies issued in the immediately preceding calendar
20 year by less than one-half of one percent (~~1/2 of 1%~~) (.5%), the calendar year statutory valuation
21 interest rate for those life insurance policies shall be equal to the corresponding actual rate for the
22 immediately preceding calendar year. ~~For the purposes of applying the immediately preceding~~
23 ~~sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a~~
24 ~~calendar year shall be determined for 1994 using the reference interest rate defined in 1993 by~~
25 ~~application of the standards specified in § 27-4-17(c)(2) and shall be determined for each~~
26 ~~subsequent calendar year regardless of when § 27-4-3-5 becomes effective.~~

27 (c) Weighting factors. (1) The weighting factors referred to in the formulas stated in
28 subdivisions (b)(1)(i) and (ii) are ~~given in the following tables~~ as follows:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

33 For life insurance, the guarantee duration is the maximum number of years the life
34 insurance can remain in force on a basis guaranteed in the policy or under options to convert to

1 plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in
2 the original policy;

3 (2) Weighting factor for single premium immediate annuities and for annuity benefits
4 involving life contingencies arising from other annuities with cash settlement options and
5 guaranteed interest contracts with cash settlement options is .80;

6 (3) Weighting factors for other annuities and for guaranteed interest contracts, except as
7 stated in subdivision (c)(2), shall be as specified in ~~tables~~ paragraphs (i), (ii) and (iii) below,
8 according to the rules and definitions in paragraphs (iv), (v) and (vi) below:

9 (i) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

16 (ii) For annuities and guaranteed interest contracts valued on a change in fund basis, the
17 factors show in subdivision (c)(3)(i) increased by:

Plan Type			
	A	B	C
	.15	.25	.05

21 (iii) For annuities and guaranteed interest contracts valued on an issued year basis, other
22 than those with no cash settlement options, which do not guarantee interest on considerations
23 received more than one year after issue or purchase and for annuities and guaranteed interest
24 contracts valued on a change in fund basis which do not guarantee interest rates on consideration
25 received more than twelve (12) months beyond the valuation date, the factors shown in
26 subdivision (c)(3)(i) or derived in subdivision (c)(3)(ii) increased by:

Plan Type			
	A	B	C
	.05	.05	.05

30 (iv) For other annuities with cash settlement options and guaranteed interest contracts
31 with cash settlement options, the guarantee duration is the number of years for which the contract
32 guarantees interest rates in excess of the calendar year statutory valuation interest rate for life
33 insurance policies with guarantee durations in excess of twenty (20) years. For other annuities
34 with no cash settlement options and for guaranteed interest contracts with no cash settlement

options, the guaranteed duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence;

(v) Plan Type as used in the above tables is defined as follows:

(A) Plan Type A: At any time the policyholder may withdraw funds only ~~(4)~~(I) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or ~~(2)~~(II) without an adjustment but installments over five (5) years or more, or ~~(3)~~(III) as an immediate life annuity, or ~~(4)~~(IV) no withdrawal permitted;

(B) Plan Type B: Before expiration of the interest rate guarantee, the policyholder may withdraw funds only ~~(4)~~(I) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or ~~(2)~~(II) without an adjustment but in installments over five (5) years or more, or ~~(3)~~(III) no withdrawal permitted. At the end of the interest rate guarantee, funds may be withdrawn without the adjustment in a single sum or installments over less than five (5) years; and

(C) Plan Type C: The policyholder may withdraw funds before the expiration of interest rate guarantee in a single sum or installments over less than five (5) years either ~~(4)~~(I) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or ~~(2)~~(II) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund; and

(vi) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this section, “issue year basis of valuation” refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and “change in fund basis of valuation” refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(d) *Reference interest rate.* Reference interest rate referred to in subsection (b) shall be defined as follows:

(1) For all life insurance, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year next

preceding the year of issue, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.;

(2) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or year of purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.;

(3) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in ~~subdivision~~ subdivision (d)(2), with guarantee duration in excess of ten (10) years, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.;

(4) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in subdivision (d)(2), with guarantee duration of ten (10) years or less, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.;

(5) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.; and

(6) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in subdivision (d)(2), the average over a period of twelve (12) months, ending on June 30 of the calendar year of the change in the fund, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(e) *Alternative method for determining reference interest rates.* In the event that the monthly average of the composite yield on seasoned corporate bonds is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners determines that the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the

reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the commissioner of insurance, may be substituted.

27-4.5-5. Reserve valuation method — Life insurance and endowment benefits. -- (a)

Except as ~~otherwise~~ provided in §§ 27-4.5-5.1, 27-4.5-8 and 27-4.5-10, reserves according to the commissioners' reserve valuation method for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by the policies, over the then present value of any future modified net premiums. The modified net premiums for any policy shall be a uniform percentage of the contract premiums for the benefits so that the present value, at the date of issue of the policy, of all modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of (1) over (2), as follows:

(1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due; provided, ~~however,~~ that the net level annual premium shall not exceed the net level annual premium on the nineteen (19) year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of the policy; and

(2) A net one year term premium for the benefits provided for in the first policy year.

(b) For any life insurance policy issued on or after January 1, 1994 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess, and which provides an endowment benefit or a cash surrender value or a combination ~~thereof~~ of them in an amount greater than the excess premium, the reserve according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, ~~defined herein~~ as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium, shall, except as ~~otherwise~~ provided in § 27-4.5-8, be the greater of the reserve as of the policy anniversary calculated as described in ~~subdivision~~ subsection (a) and the reserve as of the policy anniversary calculated as described in ~~subdivision~~ subsection (a), but with: (1) the value defined in subdivision (a)(1) being reduced by fifteen percent (15%) of the amount of the excess first year premium, (2) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (3) the policy being assumed to mature on the date as an endowment, and (4) the cash surrender value provided on the date being considered as an

1 endowment benefit. In making the ~~above~~ comparison contained in this subsection the mortality
2 and interest basis stated in §§ 27-4.5-4 and 27-4.5-4.1 shall be used.

3 (c) Reserves according to the commissioner's reserve valuation method for: (1) life
4 insurance policies providing for a varying amount of insurance or requiring the payment of
5 varying premiums; (2) group annuity and pure endowment contracts purchased under a retirement
6 plan or plan of deferred compensation, established or maintained by an employer including a
7 partnership or sole proprietorship or by an employee organization, or by both, other than a plan
8 providing individual retirement accounts or individual retirement annuities under 26 U.S.C. §
9 408; (3) disability and accidental death benefits in all policies and contracts; and (4) all other
10 benefits, except life insurance and endowment benefits in life insurance policies and benefits
11 provided by all other annuity and pure endowment contracts; shall be calculated by a method
12 consistent with the principles of ~~the preceding~~ subsections (a) and (b) of this section.

13 SECTION 17. Section 27-45.7-15 of the General Laws in chapter 27-4.7 entitled "Risk-
14 Based Capital (RBC) for "Health Organizations Act" is hereby repealed.

15 ~~**27-4.7-15. Phase-In provision.** For RBC reports required to be filed by health~~
16 ~~organizations with respect to the years 2000 and 2001, the following requirements shall apply in~~
17 ~~lieu of the provisions of §§ 27-4.7-4, 27-4.7-5, 27-4.7-6, and 27-4.7-7. However, in no event shall~~
18 ~~any of the following requirements preclude any action or limit any powers or duties otherwise~~
19 ~~available to the insurance commissioner under any other state laws or regulation:~~

20 ~~(1) In the event of a company action level event with respect to a domestic health~~
21 ~~organization, the commissioner shall take no regulatory action under this chapter;~~

22 ~~(2) In the event of a regulatory action level event under § 27-4.7-5(a)(1), (2), or (3) with~~
23 ~~respect to a domestic health organization, the commissioner shall take the actions required under~~
24 ~~§ 27-4.7-4 with respect to the health organization;~~

25 ~~(3) In the event of a regulatory action level event under § 27-4.7-5(a)(4), (5), (6), (7), (8),~~
26 ~~or (9) or an authorized control level event, the commissioner shall take the actions required under~~
27 ~~§ 27-4.7-5 with respect to the health organization;~~

28 ~~(4) In the event of a mandatory control level event with respect to a health organization,~~
29 ~~the commissioner shall take the actions required under § 27-4.7-6 with respect to the health~~
30 ~~organization;~~

31 ~~(5) In the event the health organization's total adjusted capital at December 31, 2000, is~~
32 ~~less than the product of twenty five one hundredths (.25) and its authorized control level RBC,~~
33 ~~the commissioner shall take the actions required under § 27-4.7-7 with respect to the health~~
34 ~~organization; and~~

1 ~~(6) In the event the health organization's total adjusted capital at December 31,~~
2 ~~2001, is less than the product of one-half (.5) and its authorized control level RBC, the~~
3 ~~commission shall take the actions required under § 27-4.7-7 with respect to the health~~
4 ~~organization.~~

5 SECTIONS 18. Section 40-18-2 of the General Laws in Chapter 40-18 entitled
6 “Long Term Home Health Care – Alternative to Placement in a Skilled Nursing or
7 Intermediate Care Facility” is hereby amended to read as follows:

8 **40-18-2. Definitions.** -- As used in this chapter, the following words and phrases
9 shall have the following meanings unless the context otherwise requires:

10 (1) 'Adult day care service' means a comprehensive supervised program on a regularly
11 scheduled basis to adults with disabilities for a substantial part of the day in a single physical
12 location for a specified number of participants daily. The adult day care center shall be reviewed
13 and approved by the department of elderly affairs or other appropriate state agency. Adult day
14 care services may include, but are not limited to, medical supervision, social and educational
15 activities, snacks and/or hot lunch, and transportation to and from the day care site. All adult day
16 care services must meet the conditions set forth in the rules and regulations of the department of
17 elderly affairs and must provide these services as an alternative to twenty-four (24) hour long
18 term institutional care.

19 (2) 'Case management services' means the coordination of a plan of care and services
20 provided at home to persons with disabilities who are medically eligible for placement in a skilled
21 nursing facility or an intermediate care facility upon discharge from a hospital. Such programs
22 shall be provided in the person's home or in the home of a responsible relative or other
23 responsible adult, but not provided in a skilled nursing facility and/or an intermediate care
24 facility.

25 (3) 'Certified home health' means a home care services agency which is licensed by the
26 state and which is qualified to participate as home health agency under the provisions of titles
27 XVII and XIX of the federal Social Security Act, 42 U.S.C. § 1395x, and shall provide, directly
28 or through contract arrangement, a minimum of the following services, which are of a
29 preventative, therapeutic, rehabilitative health guidance, and/or supportive nature to persons at
30 home: skilled nursing services, physical therapy, occupational therapy, speech therapy, and home
31 health aide services.

32 (4) 'Director' means the director of the department of human services.

1 (5) 'Emergency response system' means a twenty-four (24) hour per day monitoring
2 service designed for use by elderly adults in the community. The purpose of that system is to
3 provide contact between the elderly adult in the community and the appropriate emergency
4 response agency.

5 (6) 'Government funds' means funds provided under the provisions of chapter 8 of title
6 40.

7 (7) 'Home care services' means those services provided by (i) medicare Medicaid
8 certified and state licensed home health agency and (ii) state licensed home health
9 aide/homemaker agency.

10 (8) 'Home health aide/homemaker agency', ~~defined in § 23-17.7-2,~~ means: (i) home
11 health aide services, at a minimum, includes assistance with personal hygiene, dressing, feeding,
12 and household tasks essential to the patient's health and (ii) homemaker services, at a minimum,
13 includes light work or household tasks such as cooking, cleaning, shopping, and laundry.

14 (9) 'Hospital' means a hospital as defined in chapter 17 of title 23.

15 SECTION 19. Section 42-66.4-2 of the General Laws in Chapter 42-66.4 entitled “Long-
16 Term Health Care – Removal From A Skilled Nursing and/or Intermediate Care Facility” is
17 hereby amended to read as follows:

18 **42-66.4-2. Definitions.** -- As used in this chapter, unless the context otherwise
19 requires:

20 (1) 'Adult day care services' means a comprehensive supervised program on a regularly
21 scheduled basis to adults with disabilities for a substantial part of the day in a single physical
22 location for a specified number of participants daily. The adult day care center shall be reviewed
23 and approved by the department of elderly affairs or other appropriate state agency. Adult day
24 care services may include, but are not limited to, medical supervision, social and educational
25 activities, snacks and/or hot lunch, and transportation to and from the day care site. All adult day
26 care services must meet the conditions set forth in the rules and regulations of the department of
27 elderly affairs and must provide these services as an alternative to twenty-four (24) hour long
28 term institutional care.

29 (2) 'Case management services' means the coordination of a plan of care and services
30 provided at home to persons with disabilities who are medically eligible for placement in a skilled
31 nursing facility or an intermediate care facility. These programs shall be provided in the person's
32 home or in the home of a responsible relative or other responsible adult, but not provided in a
33 skilled nursing facility and/or an intermediate care facility.

1 (3) 'Certified home health' means a home care services agency which is licensed by the
2 state and which is qualified to participate as a home health agency under the provisions of 42
3 U.S.C. § 1395 et seq. and § 1396 et seq., and shall provide, directly or through contract
4 arrangement, a minimum of the following services which are of a preventative, therapeutic,
5 rehabilitative health guidance and/or supportive nature to persons at home: skilled nursing
6 services, physical therapy, occupational therapy, speech therapy, and home health aide services.

7 (4) 'Director' means the director of the department of elderly affairs unless the context
8 clearly requires a different meaning.

9 (5) 'Emergency response system' means a twenty-four (24) hour per day monitoring
10 service designed for use by elderly adults in the community. The purpose of the system is to
11 provide contact between the elderly adult in the community and the appropriate emergency
12 response agency.

13 (6) 'Government funds' means funds provided under the provisions of chapter 8 of title
14 40.

15 (7) 'Home care services' means those services provided by (a) medicare Medicaid
16 certified and state licensed home health agency and (b) state licensed home health
17 aide/homemaker agency.

18 (8) 'Home health aide/homemaker agency', ~~defined in § 23-17.7-2,~~ means:

19 (i) Home health aide services, at a minimum, includes assistance with personal hygiene,
20 dressing, feeding, and household tasks essential to the patient's health; and

21 (ii) Homemaker services, at a minimum, includes light work or household tasks such as
22 cooking, cleaning, shopping, and laundry.

23 (9) 'Skilled nursing facility' and 'intermediate care facility' shall have the same definition
24 as set forth in chapter 17 of title 23.

25 SECTION 20. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATUTES AND STATUTORY CONSTRUCTION

- 1 This act would make a variety of technical changes to various general laws, as
2 recommended by the Office of Law Revision.
3 This act would take effect upon passage.

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